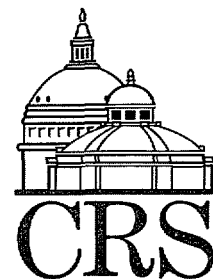


Population Assistance and Family Planning Programs: Issues for Congress

Updated August 4, 1999

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CONTENTS

SUMMARY

MOST RECENT DEVELOPMENTS

BACKGROUND AND ANALYSIS

Introduction to U S Population Assistance Issues

- Setting the Context

- Funding Levels

- Abortion and Coercion

 - The “Mexico City” Policy

 - Funding for UNFPA

 - Family Planning Conditions in China

Clinton Administration Policy

- Mexico City Policy Reversal

- Resumption of UNFPA Funding

- “Sustainable Development ” Restructuring Population Assistance and Programs

Congressional Debate in Recent Years

- Restrictions on U S Funding for NGOs and UNFPA, 105th Congress

 - Foreign Operations Appropriations, FY1998

 - Foreign Relations Authorization Act, FY1998/99 (H R 1757)

 - Foreign Operations Appropriations, FY1999

- International Family Planning Issues and Legislation in the 106th Congress

 - Reaffirming the Right of Voluntary and Informed Consent in Family Planning Programs

 - American Embassy Security Act and UNFPA Funding

 - Foreign Operations Appropriations, FY2000

LEGISLATION

CHRONOLOGY

Population Assistance and Family Planning Programs Issues for Congress

SUMMARY

Since 1965, United States policy has supported international population planning based on principles of voluntarism and informed choice that gives participants access to information on all methods of birth control. This policy, however, has generated contentious debate for over two decades, resulting in frequent clarification and modification of U S international family planning programs.

In the mid-1980s, U S population aid policy became especially controversial when the Reagan Administration introduced new policy restrictions. At the Second UN International Conference on Population in Mexico City, U S officials announced revised U S policy that rejected the existence of a global population "crisis," characterizing population growth as a "neutral phenomenon" and advocating sound policies and the development of free-market economies as "the natural mechanism for slowing population growth." Critics viewed this policy as a major and unwise departure from the U S population efforts of the previous 20 years.

The "Mexico City policy" further denied U S funds to foreign non-governmental organizations (NGOs) that perform or promote abortion as a method of family planning, regardless of whether the source of money was the U S. Presidents Reagan and Bush also banned grants to the UN Population Fund (UNFPA) because of its program in China, where coercion has been used. During the Bush Administration, a slight majority in Congress favored funding UNFPA and overturning the Mexico City policy but failed to alter policy because of presidential vetoes or the threat of a veto.

President Clinton repealed Mexico City policy restrictions and resumed UNFPA fund-

ing. Since 1995, there have been contentious debates regarding efforts to cut funding, codify the Mexico City policy, and block UNFPA funds if it continued work in China. Interim arrangements have been negotiated annually, but the broader controversy remains unresolved.

For FY1999, as enacted in P L 105-277, Congress dropped, under the threat of a presidential veto, the House-passed Mexico City restrictions but capped population aid at \$385 million. Lawmakers further added in law new policy guidelines, based on a proposal by Rep. Tiahrt, that more precisely define the voluntary nature of U S family planning programs. Over Administration objections, the FY1999 Foreign Operations funding measure also denied a U S grant to the UNFPA because of the organization's program in China.

For FY2000, President Clinton seeks \$400 million for bilateral international family planning programs, plus \$25 million for an UNFPA contribution. The House agreed (H R 2415) on July 20 to a UNFPA authorization of \$25 million for FY2000, with conditions regarding UNFPA's program in China.

The Senate Foreign Operations spending bill, S 1234, recommends increasing family planning funding to over \$425 million and earmarks \$25 million for UNFPA. The House measure (H R 2606) caps aid at \$385 million, but adds two competing provisions. The first would codify revised Mexico City policy (Smith (NJ) amendment), while the other (Rep. Greenwood) would permit U S grants to foreign NGOs as long as they do not use U S funds to perform abortions or violate abortion laws in foreign nations and that they work to reduce the incidence of abortions.

MOST RECENT DEVELOPMENTS

On July 29, 1999, during debate on the FY2000 Foreign Operations Appropriations bill (H R 2606), the House adopted two competing amendments affecting U S international family planning programs. On a 228-200 vote, the House approved an amendment by Representative Smith (NJ) prohibiting U S funds to foreign non-governmental organizations (NGOs) that perform abortions or lobby to change abortion laws in foreign countries, regardless of whether such activities were supported with U S funding. The House also adopted (221-208) a counter amendment by Representative Greenwood permitting U S grants to foreign NGOs so long as they do not use U S-provided money to perform abortions or violate abortion laws in foreign nations, and that they support programs to reduce the incidence of abortion as a method of family planning. The House rejected (187-237) an amendment by Representative Pitts that would have banned any child survival funds from being used for fertility control or child spacing programs, as well as a Representative Paul proposal (145-272) removing all population aid funds. H R. 2606 further provides \$25 million for the U N Population Fund (UNFPA), an amount that will be reduced by however much the organization spends on its program in China. As it has for the past several years, the House measure caps U S bilateral family planning programs at \$385 million, but drops language from previous spending bills that "meters" or delays the availability of population aid funds. The White House says that the President would veto any legislation that includes language similar to the House-adopted Smith amendment.

The Senate passed on June 30 its Foreign Operations bill (S 1234), earmarking \$425 million for international family planning programs within development assistance funding. Combined with approximately \$45 million for population aid in other accounts, the Senate action would increase the Administration's \$400 million family planning request by about \$70 million. S 1234 further earmarks \$25 million for UNFPA as long as the funds are not used for programs in China. The Senate measure does not include any of the controversial abortion-related restrictions added by the House.

In related legislation, on July 20, the House approved (221-198) an amendment by Representative Campbell to H R 2415, the American Embassy Security Act, authorizing a \$25 million U S contribution to UNFPA under identical conditions as stipulated in H R 2606. The Campbell amendment replaced text proposed by Representative Smith (N J) that would have prohibited funds for UNFPA unless the organization withdrew from China or the President certified that China had ended practices of coercive family planning activities.

BACKGROUND AND ANALYSIS

Introduction to U.S. Population Assistance Issues: Setting the Context

Population assistance became a global issue relatively recently — in the late 1950s and early 1960s, after several private foundations, among them the International Planned Parenthood Federation, began providing money to developing countries to control high population growth rates. In 1966, when global population growth rates were reaching an historic annual high of 2.1%, the United Nations began to include population technical

assistance in its international development aid programs. Population assistance grew rapidly over the next half-dozen years, with the United States, other developed countries, and international organizations such as the World Bank, all beginning to contribute funds. The first International Population Conference was held in 1974, followed by the second in Mexico City in 1984, and the third in Cairo in 1994. The attention and funding given to international family planning programs are credited with helping to bring a decrease in population growth rates in developing countries from a high of about 2.4% per year in the mid-1960s to about 1.9% in the mid-1990s. Throughout much of this period, the United States has been committed to international population planning based on principles of voluntarism and informed choice that give participants access to information on all major methods of birth control.

But population statistics alone are only part of a larger story. For the past thirty years and more, countries have heatedly debated what the statistics mean. Proponents of aggressive population planning programs have held that high fertility rates and rapid population growth are serious impediments to a country's development. According to this school of thought, people are consumers: no poor country can increase its standard of living and raise its per capita income while wrestling with the problems of trying to feed and care for a rapidly expanding population. Thus, poor and developing countries should invest in population control programs as part of their economic development process.

On the opposing side, opponents of aggressive population planning programs hold that there is little or no correlation between rapid population growth and a country's economic development. Some argue that increased numbers of people provide increased productive capacity; therefore, they say, high population growth rates actually can contribute to a country's ability to increase its standard of living. At the very least, proponents of this view say, current economies of scale and global trading patterns have too many empirical variables and uncertainties to establish a direct correlation between population growth and economic development.

As this population debate evolved, many countries, including the United States, have changed their views. In the 1974 international population conference, the United States and other donor countries asserted that high fertility rates were an impediment to economic development — an assertion that was then rejected by developing countries. In keeping with this view, the Carter Administration in 1977 proposed language in domestic legislation, later enacted in Section 104(d) of the Foreign Assistance Act (FAA) of 1961, which sought to link population growth and traditional development assistance programs on the grounds that a high population growth rate could have a serious negative effect on other development objectives.

A decade later, at the second conference in Mexico City in 1984, a reversal of positions occurred. Developing countries had become convinced of the urgent need to control population growth, while U.S. officials asserted that population growth was not necessarily a negative force in economic development, but was instead a "neutral phenomenon." At Mexico City, Reagan Administration officials emphasized the need for developing countries to adopt sound economic policies that stressed open markets and an active private sector.

Again nearly a decade later, the Clinton Administration changed the U.S. position on population planning programs by lifting restrictive provisions adopted at the Mexico City

Conference At the 1994 Cairo Conference, Clinton Administration emphasized U S support for assuring family planning and reproductive health services, improving the status of women, and providing access to safe abortion

In addition to differences of opinion over how population growth affects economic development in developing countries, population planning assistance has become an issue of substantial controversy among U S policymakers for two other reasons debates over appropriate, effective, and affordable funding levels, and allegations of abortion and coercion in some international population planning programs

Funding Levels

Since 1965, USAID has obligated over \$6.6 billion in assistance for international population planning In many years, and especially over the past decade, the appropriate level of funding for population assistance programs has been controversial During the 1980s and 1990s, Congress and the executive branch frequently clashed over the amount of foreign aid that should be allocated to family planning programs Until FY1996, Congress generally supported higher funding levels for population aid than proposed by the President, especially during the Reagan and Bush Administrations Family planning assistance obligations averaged about \$280 million annually during the late 1980s, but grew rapidly in the 1990s, peaking in FY1995 at \$577 million

With the change in party control of Congress during the FY1996 budget cycle, family planning policy and budget issues became, and have continued to be, the most contentious foreign aid matter considered by Congress Population aid obligation levels fell abruptly to \$125 million in FY1996, largely the result of three factors surrounding the deadlock that emerged over family planning issues that year 1) significant reductions (over 20%) enacted by Congress for overall development assistance funding, 2) the passage of the Foreign Operations spending measure four months after the fiscal year had begun, largely because of the family planning dispute, and 3) a congressional restriction that delayed USAID access to any FY1996 population aid funds until July 1, 1996, and "metered" the monthly availability of these resources to about \$23 million over a 15-month period Because of this "metering" requirement, most of the FY1996 population aid appropriation of \$356 million did not become available for obligation until FY1997 ["Obligations" of funds differs from appropriations — obligations represent the year in which funds are committed, but not necessarily appropriated As illustrated in Table 1, obligation levels for FY1997 and 1998 returned to or exceeded amounts for FY1994/95, primarily because large amounts of FY1996 appropriations were carried forward and obligated during the next two years The annual average of obligations for the period FY1996-98, however, was \$404 million, substantially below levels during the early-to-mid 1990s] As the executive-legislative dispute over family planning policy and abortion continued unresolved, Congress has capped bilateral population aid for FY1997-99 at \$385 million annually, well below the President's request

Supporters of increasing population aid, many of whom believe strongly that population growth must be curtailed before meaningful development can occur, contend that population assistance should be among the highest priorities of U S development strategy In their view, the United States should maintain, if not increase, its commitment to family planning programs overseas Population growth is seen as having long-term consequences, affecting diverse U S interests in environmental protection, resource conservation, global economic

growth, immigration management, and international stability. They maintain that attention to family planning assistance now could obviate future allocations in other development and health-related accounts. Some proponents of population assistance programs see a particular irony, for instance, in limiting funds for population stabilization programs while increasing the budget claims of child survival and infectious disease programs.

Opponents of increasing population aid argue that even without added funding levels, the United States continues to be the largest bilateral donor in population assistance programs. Some also claim that there is little or no correlation between rapid population growth and a country's economic development. At the very least, some opponents say, current economies of scale and global trading patterns have too many empirical variables and uncertainties to establish a direct correlation between population growth and economic development.

Table 1 Population Assistance, FY1992-2000
(obligation of millions of \$s)

Appropriation Account	1992	1993	1994	1995	1996	1997 est	1998 est	1999 est	2000 req
Development/Population*	249.5	361.5	387.3	437.6	124.5	427.2	484.4	339.0	355.0
Dev Fund-Africa*	65.5	75.3	82.1	73.8	---	---	---	---	---
ESF/NIS/SEED*	10.6	11.0	10.7	30.3	27.0	28.7	53.6	46.0	45.0
UNFPA*	0	14.5	40.0	35.0	22.8	25.0	20.0**	0	25.0
Total	325.6	462.3	520.1	576.7	174.3	480.9	558.0	385.0	425.0

Source: AID/Office of Population. FY1999 = appropriated funds. Total population aid across all accounts cannot exceed \$385 million.

* Notes on Foreign Operations Appropriation accounts that fund population aid:

Development/Population - Through FY1995, population aid was a separate development asst account. Since FY1996, population aid has been included within the general USAID development and the Child Survival accounts.

Development Fund for Africa - Through FY1995, population aid to Africa was appropriated in this account. Since FY1996, population aid for Africa has been included in the account for all USAID development programs.

Economic Support Fund/ Newly Independent States/Support for East European Democracy - ESF is security-related economic aid; most population funds are for Egypt. NIS & SEED accounts fund economic aid programs in the former Soviet Union and Eastern Europe and include population funds for these regions.

UN Population Fund - Appropriated as part of the account for U.S. voluntary contributions to intl organizations.

** UNFPA appropriation for FY1998 was \$25 million. Of that, the United States withheld \$5 million because UNFPA has initiated a new program in China.

Abortion and Coercion

The bitterest controversies in U.S. population planning assistance have erupted over abortion — in particular, the degree to which abortions and coercive population programs occur in other countries' population planning programs, the extent to which U.S. funds should be granted to or withheld from such countries, and the effect that withholding U.S. funds will have. Both U.S. congressional actions and administrative directives over the last two decades have restricted U.S. population assistance in various ways, including prohibiting

direct support for abortions as a method of family planning, coerced abortions, and involuntary or coerced sterilizations, and prohibiting **indirect** support for coercive family planning (specifically in China) and abortion activities by restricting funding for international and nongovernmental organizations. Two issues in particular which were initiated in 1984 — the “Mexico City” policy involving funding for non-governmental-organizations (NGOs), and restrictions on funding for the U N Population Fund (UNFPA) because of its activities in China — have remained controversial and became prominent features again in the population assistance debates in the 104th and 105th Congresses.

The “Mexico City” Policy With direct funding of abortions and involuntary sterilizations banned by Congress since the 1970s, the Reagan Administration in 1984 announced that it would further restrict U S population aid by terminating USAID support for any **organizations** (but not governments) that were involved in voluntary abortion activities, even if such activities were undertaken with non-U S funds. The announcement was made at the 2nd U N International Conference on Population in Mexico City in 1984, thereafter becoming known as the “Mexico City” policy. USAID announced in late 1984 that it would not provide funds for the International Planned Parenthood Federation/London (IPPF) in FY1985 because the IPPF/London, which had operations in 132 countries, refused to renounce abortion-related activities it carried out with non-U S funds. On Jan 13, 1987, Planned Parenthood Federation of America (PPFA) filed a lawsuit against USAID challenging the “Mexico City” policy. In 1990, the U S District Court and Court of Appeals ruled against PPFA, and in 1991, the Supreme Court refused to review the lower court’s decision. The President’s discretionary foreign policy powers to establish different standards for NGOs and foreign governments were thereby upheld.

During the Bush Administration, efforts were made in Congress to overturn the Mexico City policy and rely on existing congressional restrictions in the Foreign Assistance Act banning direct U S funding of abortions and coerced sterilizations. Likewise, the conference reports on the FY1992-93 foreign aid authorization bill (H R 2508 — H Rept 102-225) and on the FY1993 foreign aid appropriations bill (H Rept 102-1011) included language to reverse the Mexico City policy. Ultimately, both provisions were removed from these bills under threat of a presidential veto.

Funding for UNFPA Also at the Mexico City Conference, the Reagan Administration established the requirement that the United Nations Population Fund (UNFPA) provide “concrete assurances that [it] is not engaged in, or does not provide funding for, abortion or coercive family planning programs.” Concern was highest over UNFPA’s activities in China’s coercive family planning practices. At the time, the Administration reportedly held up \$19 million (of \$38 million allocated for UNFPA for FY1984) until the organization could provide the necessary assurances.

Subsequently, Congress legislated a more restrictive UNFPA policy by enacting the “Kemp-Kasten amendment” in the FY1985 Supplemental Appropriations Act (P L 99-88). This language prohibited the use of appropriated funds for any **organization or program**, determined by the President, to be supporting or participating “in the management” of a program of coercive abortion or involuntary sterilization. (This provision has been repeated in subsequent foreign aid appropriations acts that expire each year.) Accordingly, on Sept 25, 1985, USAID announced that \$10 million of \$46 million that had been earmarked for UNFPA during FY1985 would be redirected to other programs. On Aug 27, 1986, USAID

announced that the United States would not contribute to UNFPA at all in 1986. Most of the \$25 million that was originally allocated for UNFPA was spent for other international family planning activities. From 1986 through 1993, no U.S. contributions went to UNFPA.

As with the Mexico City provisions, during the Bush Administration a slight majority in Congress tried to resume funding for UNFPA through foreign aid authorization and appropriations bills. But no foreign aid authorization bill has been approved since 1985, and appropriations bills that would have resumed UNFPA funding were either vetoed by President Bush or withdrawn in the face of a veto threat. In 1989, Congress earmarked population assistance funds for UNFPA in the FY1990 Foreign Operations Appropriations bill, President Bush vetoed the measure in part because of this inclusion, and the provision was removed.

Family Planning Conditions in China Much of the UNFPA debate has focused on that organization's programs in China, both because of China's well-known population growth problem and because of widespread publicity given to reports of coercion in its family planning programs. China's population increased from 500 million in 1950 to 1.008 billion according to the 1982 census — an average annual growth rate of 2%, or a doubling of the population every 36 years. (Although the 2% rate is not particularly large by developing country standards, many consider a lower rate crucial to China's economic development prospects given the country's already huge population size.)

In light of these population growth rates, Beijing authorities apparently came to view control of population growth not simply as an important priority, but as a necessity for the nation's survival. In an attempt to reach a 1% annual population growth rate, Chinese authorities in 1979 instituted a policy of allowing only one child per couple, providing monetary bonuses and other benefits as incentives. Women with one living child who become pregnant a second time were said to be subjected to rigorous pressure to end the pregnancy and undergo sterilization, couples who actually had a second child faced heavy fines, employment demotions, and other penalties. PRC leaders have admitted that coerced abortions and involuntary sterilizations occur, but insist that those involved are acting outside of the law and are punished, particularly through the Administrative Procedure Law enacted in October 1990. Chinese authorities have termed female infanticide an "intolerable crime" that must be punished by law.

After 1983 — thought to be the peak year of coercion in Chinese family planning in the 1980s — the PRC in 1984 relaxed its "one-child" policy in the rural areas. The original target for the PRC's population in the year 2000 had been 1.2 billion, but that goal was relaxed in 1984 to 1.25 billion, and the Chinese minister of family planning indicated in 1991 that the target population size for 2000 is now 1.294 billion. In addition, the policy has been loosely applied for Tibetan, Muslim, and other ethnic minorities. China has also reported regional differences in the so-called "one-child" policy. Economic reforms in part weakened enforcement of the policy in more prosperous areas — with rising incomes absorbing fines.

On April 25, 1993, the *New York Times* reported 1992 Chinese statistics indicating a "major nationwide crackdown by the Chinese family planning authorities" in 1991-1992. The PRC's 1990 census had shown a 1.13 billion population, with the average number of children per family at 2.3 and targeted to drop to 2 by 2000. Already by 1992, however, the Chinese fertility rate surprisingly dropped to 1.8 or 1.9 — levels common for Europe and the United States. This drop apparently in part resulted from a reported 25% "surge" in the number of

sterilizations in 1991 to 12.5 million, which then declined to 6.5 million in 1992. The reported percentage of Chinese women using contraception, including sterilization, jumped from 71% in 1991 to 83% in 1992. (The U.S. rate is 74%.) The population planning crackdown is said to have included less use of forced abortions, but more required, organized sterilization or other contraception, pressures for abortions, inducing labor early, arbitrary, exorbitant fines, confiscation or destruction of homes and other property, beatings, and high-level leadership pressures for local officials to meet birth quotas or face punishment.

Two years later, on February 14, 1995, newspapers reported that population curbs in China were not working quite as planned. A population of 1.2 billion had been reached five years earlier than expected. As a result, the Chinese government intended to launch a new family planning program with the objective of keeping the population at below 1.3 billion by the end of the decade. The new program calls for greater pressure in rural areas where birth rates are highest and would reward couples who have just one child. The State Department reports, however, that exceptions to the "one-child policy" outside of urban centers are now the norm. In a separate matter, the Maternal and Child Health Care Law, effective in June 1995, requires couples at risk of transmitting disabling congenital defects to their children to use birth control or undergo sterilization.

In 1987, Congress passed a requirement that the State Department's annual human rights report include information on coercive population control practices (Section 127, P.L. 100-204). The 1998 report on human rights practices states that the Chinese government "prohibits the use of force to compel persons to submit to abortion or sterilization. However, intense pressure to meet family planning targets set by the government has resulted in documented instances of family planning officials using coercion, including forced abortion and sterilization, to meet government goals." The State Department report says that in 1998 "for the first time, the Government provided information on cases of local officials who had been punished for carrying out coercive family planning measures."

Clinton Administration Policy

In its first days in office, the Clinton Administration changed U.S. family planning assistance policies. The Administration repealed the Mexico City policy regarding funding for NGOs, resumed funding for UNFPA, and announced that it was moving population assistance to one of its highest priorities in international development aid policy.

Mexico City Policy Reversal In a January 22, 1993, memo to USAID, President Clinton lifted restrictions imposed by the Reagan and Bush Administrations on USAID grants to family planning NGOs — in effect repealing the Mexico City policy. The memo noted that the policy had extended beyond restrictions in the FAA and was not mandated by law. In his remarks, President Clinton explained that this step "will reverse a policy that has seriously undermined much needed efforts to promote safe and effective family planning programs abroad, and will allow us to once again provide leadership in helping to stabilize world population." Clinton characterized this action as one of the most significant "environmental" steps the United States could take. On August 26 and 30, 1993, respectively, USAID provided \$2.5 million to the World Health Organization's Human Reproduction Program (HRP) and \$13.2 million to the IPPF.

Resumption of UNFPA Funding In addition to lifting the Mexico City restrictions, the Clinton Administration also announced it would review the legal requirements of the “Kemp-Kasten amendment” language which effectively banned U S foreign assistance to UNFPA. After a determination that the “Kemp-Kasten amendment” did not prohibit funding for UNFPA, USAID on August 26, 1993, provided \$14.5 million of FY1993 funds to UNFPA. In FY1994, the Administration proposed \$50 million for UNFPA. That request also included language banning the use of U S funds by any country or organization that would violate provisions on coercive abortions or involuntary sterilizations, as certified by the President. In congressional debate over that and the next fiscal year’s request, the resumption of U S funding to UNFPA was debated and contested. Ultimately, U S contributions to UNFPA were permitted to continue, although with restrictions that deducted the amount equal to UNFPA’s activities in China. Some Members urged a continued denial of funds to UNFPA until it ended its involvement in China.

“Sustainable Development ” Restructuring Population Assistance and Programs During its first year, the Clinton Administration came to view economic and other development-related policies as tools important to combating key threats to global peace and stability. To meet these threats, the Administration devised a foreign assistance policy that concentrated on “sustainable development” — which it defined as “economic and social growth that does not exhaust the resources of a host country [and that] permanently enhances the capacity of a society to improve its quality of life.” The new strategy made stabilizing world population one of five primary objectives of U S foreign assistance programs, along with environmental protection, building democracy, developing human capacity through education and encouraging broad-based economic growth. Although the elements of the sustainable development strategy have not been endorsed explicitly by Congress in legislation, the Administration continues to apply this strategy, including emphasis on stabilizing world population, to U S foreign aid programs.

Congressional Debate in Recent Years

U S population assistance programs and funding levels have been extraordinarily controversial in Congress since 1995. House and Senate differences over abortion restrictions and United Nations population programs have been of such proportion that lawmakers have not been able to agree to a final, long-term resolution on what degree of abortion restrictions should govern U S international family planning assistance. Instead, House, Senate, and White House negotiators have eventually reached a series of interim settlements that do not directly address the abortion issue, but which represent more of a temporary solution to the family planning matter. During this period, the House and Senate differed particularly over efforts by Representative Chris Smith and others to reinstate “Mexico City” restrictions on funding for international groups involved in family planning work that included abortion or efforts to change abortion laws and that restricted U S contributions to UNFPA.

Restrictions on U S Funding for NGOs and UNFPA, 105th Congress

The acrimonious debate surrounding family planning issues in the previous Congress continued in the 105th, although with a new focus. Unable to work out an arrangement with the White House in late 1997, House leaders linked the Mexico City policy to two other very high Administration priorities — funding for U S participation in the International Monetary

Fund's new replenishments and payment of arrears to the U N and other international organizations. The House refused to vote on these matters until the White House was willing to accept some parts of the Smith amendment. The issue again came before Congress as part of the conference agreement on H R. 1757, an omnibus foreign policy authorization bill that included both a modified Smith amendment and U N arrearage payments.

Foreign Operations Appropriations, FY1998 The Senate, in June 1997, passed S 955, establishing a separate \$435 million account for population aid that would be subject to long-standing policy prohibitions on using the money for directly funding abortions or for lobbying. These limitations, similar to those included in foreign aid bills for many years, stopped short of the "metering" restrictions contained in the FY1997 appropriation or the "Mexico City" policy because they would apply only to the use of U S government funds and not to money raised by organizations from non-U S sources.

The House bill (H R. 2159) also removed the FY1997-enacted family planning program restrictions dealing with the "metering" of funds, but limited spending to the FY1997 amount of \$385 million. During House floor debate, lawmakers considered three amendments concerning family planning and population aid issues. The first, a proposal offered by Representative Paul and defeated (147-278), would have deleted all population assistance funding in the bill. The House next took up an amendment proposed by Representatives Gilman, Pelosi, Greenwood, Campbell, and others that was offered as a substitute to a pending amendment by Representative Smith (NJ). The Smith amendment closely mirrored the Mexico City family planning restrictions by prohibiting U S funding to foreign non-governmental and international organizations unless they certified that they will not perform abortions in any foreign country while receiving U S money, except where the life of the mother is in danger or in cases of forcible rape or incest, and that they will not lobby to change abortion laws in foreign countries. The Gilman substitute, on the other hand, would have had the effect of banning funds to these organizations only if they *promote* abortion as a method of family planning. For groups that *perform* abortions, the Gilman text would have continued current law -- that is, U S funds may not be used for performing abortions, but no restrictions would apply to what organizations did with non-U S money. The Smith amendment also prohibited contributions to UNFPA unless the President certifies that the organization is not operating in China or that China has not engaged in coercive abortion practices during the past 12 months. The Gilman substitute would not have changed the certification requirement, but would have allowed funds not available to UNFPA to be transferred to USAID for bilateral population aid programs. After defeating the Gilman substitute (210-218), the House adopted the Smith amendment (234-191).

The impasse over reaching an acceptable resolution to House-Senate and House-Administration differences blocked formal meetings of Foreign Operations conferees for nearly two months. On October 7 the House voted (233-194) to instruct House Members of the conference committee to insist upon the Smith amendment during conference deliberations. Although conferees met on October 28, they had agreed in advance to defer the family planning and Mexico City policy issue and the matter remained unresolved. Several subsequent efforts to negotiate an acceptable alternative did not yield results. In one case, on November 6, conference committee leaders fell two votes shy of gaining a majority of conferees in favor of a modified provision that would have included the House-passed Mexico City restrictions, but allowed the President to waive the ban on funding for groups that performed abortions. If he exercised the waiver, however, USAID would have its funding

for population programs capped at \$356 million. In another effort, the Senate merged Foreign Operations into the District of Columbia Appropriations (H R 2607) on November 9, which included a provision banning U S funds to foreign non-governmental groups and international organizations that (1) performed abortions with their own money, or (2) lobbied to change abortion laws in foreign countries. The President could waive either of these restrictions for FY1998 and FY1999, but if he did, population aid funds would be capped at \$410 million (in the case of waiving one restriction) or \$385 million (for waiving both). The President had requested about \$443 million. Even if Congress had supported these alternatives, it is likely the President would have vetoed the Foreign Operations measure. The White House had said for several months that the President would reject any legislation that included Mexico City restrictions.

A resolution was finally reached in mid-November when conferees agreed to cap population aid at \$385 million, the level for FY1997 but about \$58 million less than requested. The legislation also apportioned, or "metered" the funds at a monthly rate of \$32.1 million. The conference agreement, however, deleted the House-passed restrictions on family planning policy and the out-right ban on contributions to UNFPA if the organization had a China program. (Regarding UNFPA, the conference agreement continued prior language requiring a deduction in the U S contribution if UNFPA re-initiated a China program. When the organization did so in 1998, the Administration withheld \$5 million from the FY1998 U S contribution.) This arrangement was similar, but somewhat less restrictive than Congress enacted for FY1997. Funding remained the same, but instead of a delay until July for access to the money, as was the case in FY1997, USAID would begin to receive the \$32.1 million monthly apportionments immediately. The President, who threatened to veto any bill that included the House restrictions, signed H R 2159 on November 26 (P L 105-188).

Foreign Relations Authorization Act, FY1998/99 (H R 1757) In mid-1997, the House approved language nearly identical to family planning text included in the House-passed FY1998 Foreign Operations appropriations to an omnibus foreign affairs authorization measure that included, among many other things, funding to clear U S arrears at the U N and other international organizations, subject to a series of restrictions and reforms, and authority to reorganize and consolidate major U S foreign policy agencies. Like the case of the appropriations bills, House and Senate conferees deadlocked in late 1997 on the issue of including the Smith amendment in the final version of H R 1757. One consequence of this impasse was the blockage of \$100 million appropriated for FY1998 to pay a portion of U S overdue bills at the United Nations, funds that would become available only upon authorization contained in H R 1757.

Negotiations on a conference bill, however, resumed in early March 1998, resulting in agreement on March 10. For family planning programs, conferees adopted language similar to an option considered in November 1997 by House and Senate Appropriations Committees but which was dropped when an insufficient number of conference committee members would sign the conference report. Under the terms of H R 1757, foreign groups receiving U S population aid would be banned from performing abortions, from violating abortion laws or foreign countries, or from lobbying to change such laws or government policies during the period in which they received U S grants. The President could waive the first restriction regarding the performance of abortion, but his action would result in setting a ceiling of \$356 million for population assistance. For UNFPA to receive any U S funds, the language

required the President to certify that the U N organization is not engaged or plans to engage in a program for China, or that there have been no coerced abortions in China during the previous 12 months. Such limitations would become permanent law and affect the use of funds provided in current and future appropriation measures.

The House approved the conference agreement on March 26 by voice vote. Over a month later, on April 28, the Senate followed, narrowly passing the conference report 51-49. After Senate passage, the White House reiterated its opposition saying the President would veto the bill. With the veto threat hanging over H R 1757, congressional leaders did not send the legislation to the President until October 21. Although H R 1757 authorized payment of U S arrears to the United Nations, a major Administration priority, President Clinton vetoed the bill because of the Mexico City language.

Foreign Operations Appropriations, FY1999 As in recent years, House and Senate positions adopted in the annual appropriations measure were at odds with one another. On September 10, the House Appropriations Committee reported H R 4569 that included an amendment proposed by Congressman Wicker adding the same revised "Mexico City" policy restrictions on U S population programs that Congress adopted in H R 1757, that is, a requirement that foreign organizations receiving U S family planning funds must certify that they do not perform abortions or lobby to change abortion laws in foreign countries. The President could waive the restriction concerning the performance of abortions, but if he did, population aid funding could not exceed \$356 million, a reduction from the \$385 million limit placed in the bill for FY1999. The measure would have further banned U S contributions to the U N Population Fund (UNFPA) in FY1999 because the organization had initiated a new program in China. H R 4569 would also have placed into permanent law a prohibition on UNFPA contributions in future years unless the President certifies that the organization is not conducting programs in China or that China has not engaged in coercive abortion practices during the past 12 months. Stemming from reports of coercive family planning practices in Peru and other countries, the House further adopted an amendment by Representative Tiahrt that specifically defines the principal of *voluntarism* in population aid programs and establishes criteria for USAID to apply in managing U S family planning projects overseas.

The Senate, on September 2, passed S 2334, its companion Foreign Operations bill, earmarking \$435 million for population assistance, an amount higher than the President's request. The Senate measure included the long-standing prohibition on the use of U S government funds for abortions, but did not attach Mexico City restrictions or funding limitations on UNFPA contributions.

House-Senate and House-Administration differences on family planning issues again became one of the major contentious issues in reaching agreement on a final Foreign Operations spending measure for FY1999. Because Foreign Operations, like seven other regular appropriations measures, were not passed in time, the family planning matter this year was part of a much larger debate over \$500 billion-plus omnibus spending bill where a series of domestic, defense, and foreign policy controversies were settled in negotiations between the White House and congressional leaders. Following several weeks of bargaining, on October 21 Congress cleared and the President signed into law the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P L 105-277), legislation that incorporated the regular Foreign Operations Appropriations for FY1999. As enacted, H R 4328 drops the House-passed "Mexico City" abortion restrictions, but caps population

assistance at \$385 million and deletes funding for the UN Population Fund because of its program in China. It further includes a modified version of the House-passed Tiahrt language concerning the voluntary nature of U.S. family planning programs.

International Family Planning Issues and Legislation in the 106th Congress

President Clinton has recommended \$400 million for USAID population programs in FY2000, an increase from the \$385 million appropriated for this year, and a \$25 million contribution to UNFPA. As in the past, these funding questions will be addressed during the annual consideration of the Foreign Operations appropriations measure. Meanwhile, during the early months of the 106th Congress, lawmakers have introduced or acted on several legislative measures that suggest that U.S. international family planning policy and population aid issues will continue to be a major focus of attention in 1999.

Reaffirming the Right of Voluntary and Informed Consent in Family Planning Programs On March 23, the House approved a non-binding resolution (H Res. 118), authored by Representative Tiahrt, re-emphasizing the voluntary nature of international family planning programs. The resolution is aimed at an upcoming meeting of the U.N. General Assembly in late June that will review and appraise the implementation of the program of action of the 1994 International Conference on Population and Development. Proponents of H Res. 118 want to signal the conference that Congress believes that all family planning programs should be completely voluntary, avoid numerical targets, and provide recipients complete information on methods.

American Embassy Security Act and UNFPA Funding Responding to the President's request for a \$25 million UNFPA contribution for FY2000, the House International Relations Subcommittee on International Operations and Human Rights included in its March 23 markup of H.R. 1211, a bill authorizing State Department programs for the next two years, restrictions on further U.S. participation in the UNFPA. The legislation, as approved by the subcommittee, would have prohibited U.S. funding unless the President certified that the U.N. group had withdrawn from China or that China had ended coercive abortion and family planning policies. The full House International Relations Committee, however, overturned the subcommittee recommendation on an amendment by Representative Campbell, approved 23-17. H.R. 1211, as ordered reported on April 25, authorizes \$25 million for UNFPA in each FY2000/2001, with several conditions:

- UNFPA must keep U.S. funds separate and not use them in China,
- the U.S. contribution will be reduced dollar-for-dollar by the amount UNFPA spends in China, unless the President certifies that the UNFPA's China program emphasizes improving the delivery of voluntary family planning services, is consistent with human rights principles, operates only in counties where targets and quotas have been terminated, and works under the oversight of UNFPA's Executive Board.

Most of H.R. 1211, including the UNFPA provisions, were repeated in H.R. 2415, the American Embassy Security Act. During debate on H.R. 2415 in mid-July, the House adopted (221-198) an amendment by Representative Campbell authorizing a \$25 million U.S. contribution to the U.N. Population Fund (UNFPA) and replacing the conditions agreed to by the House International Relations Committee. Under the terms of the Campbell amendment, the United States will reduce the UNFPA transfer by whatever amount, if any,

the international family planning organization spends on a program in China in 2000. The Campbell amendment replaced text proposed by Representative Smith (N J) that would have prohibited funds for UNFPA unless the organization withdrew from China or the President certified that China had ended practices of coercive family planning activities.

Foreign Operations Appropriations, FY2000 Following policy positions taken in previous debates, the Senate Appropriations Committee recommended on June 17 to increase international family planning assistance without application of the most controversial abortion-related restrictions. S. 1234 earmarks \$425 million within the bilateral development aid account for population assistance, which combined with anticipated funding from other bilateral economic aid accounts would increase total U.S. family planning funding to about \$470 million. The legislation also earmarks \$25 million for UNFPA that would be conditioned only on the basis that the funds cannot be used in China and that UNFPA must maintain the money in a separate account so that expenditures can be monitored. The full Senate approved S. 1234 on June 30 by a vote of 97-2.

In somewhat of a departure from bills passed the past several years, the House agreed to a companion bill, H.R. 2606, on August 3 that does not “meter” or delay the availability to USAID of international family planning funds for FY2000. H.R. 2606, however, retains the \$385 million cap on population aid, cutting the President’s request by \$15 million. The House further agreed to a provision offered by Representative Pelosi in Committee, providing \$25 million for UNFPA under the same conditions set out in the Campbell amendment attached to H.R. 2415 — that is, a dollar-for-dollar reduction in the \$25 million contribution linked to how much, if any, UNFPA spends on its program in China.

During floor debate on H.R. 2606, the House adopted two competing, and possibly conflicting, amendments affecting U.S. international family planning programs. On a 228-200 vote, the House approved a modified Mexico City policy amendment by Representative Smith (NJ) prohibiting U.S. funds to foreign NGOs that perform abortions or lobby to change abortion laws in foreign countries, regardless of whether such activities are financed with U.S. funds. The House also adopted (221-208) a counter amendment by Representative Greenwood permitting U.S. grants to foreign NGOs as long as they do not use U.S.-provided money to perform abortions or violate abortion laws in foreign nations, and that they support programs to reduce the incidence of abortion as a method of family planning. Because the Smith language is more restrictive concerning foreign NGO eligibility for receiving USAID grants, it would be the operative text if both amendments are enacted. Requirements in the Greenwood provision that NGOs support programs reducing abortions as method of family planning and adhere to abortion laws in foreign countries, nevertheless, would also apply should conferees adopt both positions. Theoretically, however, some foreign NGOs that would be eligible recipients of USAID grants under the Greenwood amendment would be barred from receiving U.S. population aid under the Smith restrictions. Conferees will have to reconcile these amendments, as well as differences with the Senate bill, when they meet to shape a common Foreign Operations spending measure. President Clinton has vetoed or threatened to veto previous legislation that included language similar to the House-adopted Smith amendment. Once again, the White House says the President would veto any bill that includes the Smith language. Also during floor debate, the House rejected (187-237) amendments by Representative Pitts that would have banned any child survival funds from being used for fertility control or child spacing programs (except breastfeeding programs) and by Representative Paul (145-272) eliminating family planning funds from the bill.

LEGISLATION

H R. 895 (Maloney)

United Nations Population Fund (UNFPA) Funding Act of 1999 Authorizes a U S contribution to UNFPA of \$25 million and \$35 million in FY2000/2001, respectively Introduced March 2, 1999, referred to the International Relations Committee

H R. 1211 (Smith, N J)

Authorizes appropriations for the State Department FYs 2000/2001 Authorizes \$25 million for UNFPA in each FY2000/2001, with conditions Introduced March 22, 1999, referred to the International Relations Committee, marked up and approved by the International Operations and Human Rights Subcommittee on March 23, with a provision prohibiting UNFPA funding except under certain conditions, full Committee marked up and ordered reported H R 1211 on April 15, after adopting an amendment by Representative Campbell (23-17) that struck the subcommittee UNFPA recommendation and authorizes \$25 million, with conditions Replaced by H R 2415, below

H R. 2415 (Smith, N J)

American Embassy Security Act of 1999 Introduced on July 1 Passed the House on July 21 after agreeing to a Campbell amendment (221-198) authorizing \$25 million for UNFPA, an amount that will be reduced by however much, if any, UNFPA spends on a program in China in 2000

H R 2606 (Callahan)

Foreign Operations Appropriations, 2000 Includes funding for U S bilateral population aid programs and contributions to UNFPA Introduced and reported by the House Committee on Appropriations, July 23 (H Rept 106-254) During debate on July 29, the House adopted two competing family planning policy amendments by Representative Smith and Representative Greenwood Passed House Aug 3 (385-35)

H Res 118 (Tiahrt)

Reaffirms the principles of the Programme of Action of the International Conference on Population and Development with respect to the sovereign rights of countries and the right of voluntary and informed consent in family planning programs Introduced March 16, 1999, passed House under suspension of the rules on March 23 (voice vote)

S 965 (Jeffords)

United Nations Population Fund (UNFPA) Funding Act of 1999 Authorizes a U S contribution to UNFPA of \$25 million and \$35 million in FY2000/2001, respectively Introduced May 5, 1999, referred to the Foreign Relations Committee

S 1234 (McConnell)

Foreign Operations Appropriations, 2000 Includes funding for U S bilateral population aid programs and contributions to UNFPA Introduced and reported by the Senate Committee on Appropriations, June 17 (S Rept 106-81) Passed the Senate June 30

CHRONOLOGY

- 07/29/99** — During floor debate on H R 2606, the House adopted two competing family planning policy amendments. The House first approved (228-200) Smith amendment prohibiting U S funds to foreign NGOs and international organizations that perform abortions or lobby to change abortion laws in foreign countries, regardless of whether such activities were supported with U S funding. The House also adopted (221-208) a counter Greenwood amendment permitting U S grants to foreign NGOs as long as they do not use U S -provided money to perform abortions or violate abortion laws in foreign nations and that they support programs to reduce the incidence of abortion as a method of family planning.
- 07/20/99** — The House adopted a Campbell amendment (221-198) to H R 2415 authorizing a \$25 million contribution to UNFPA, with conditions. The amendment substituted for one by Representative Smith that would have blocked U S transfers to UNFPA unless the group withdrew from China.
- The House Appropriations Committee agreed to H R 2606, the FY2000 Foreign Operations bill, that caps population aid at \$385 million. The House panel further approved a Pelosi amendment providing \$25 million for UNFPA under identical conditions as in H R 2415 as passed by the House.
- 06/30/99** — Senate approved S 1234 that includes a \$425 million earmark for family planning programs and a U S contribution of \$25 million to UNFPA.
- 04/14/99** — The House International Relations Committee approved an amendment by Representative Campbell to H R 1211 that struck a subcommittee prohibition on UNFPA funding and authorized \$25 million for FY2000/2001, with conditions.
- 03/23/99** — The House adopted H Res 118, a non-binding resolution reaffirming the principals of voluntary and informed consent in U S international family planning programs.
- 02/01/99** — President asked Congress to provide \$400 million in bilateral family planning aid for FY2000, plus a \$25 million contribution to UNFPA.
- 10/21/98** — Congress cleared and the President signed into law H R 4328, an omnibus appropriation measure including Foreign Operations funding for FY1999. As approved, H R 4328 caps international population assistance at \$385 million and bans U S contributions to UNFPA, but drops House-passed revised Mexico City abortion restrictions. At the same time, President Clinton vetoed H R 1757 because it contained the Mexico City language. The legislation had passed Congress in April 1998, but had not been forwarded to the President because of a veto threat.

- 09/17/98** — House passed H R 4569, the Foreign Operations Appropriations, FY1999, after attaching revised Mexico City abortion restrictions, setting a \$385 million cap on family planning aid, and banning contributions to UNFPA
- 09/02/98** — Senate passed S 2334 (Foreign Operations Appropriations, FY1999), legislation that included \$435 million for population assistance
- 03/10/98** — Conferees agreed to H R 1757, including language banning U S funds to foreign groups that perform abortions or lobby to change abortion laws in foreign countries. The President could waive the restriction on the performance of abortions, but if exercised, population aid funds would be cut to \$356 million
- 11/12/97** — The House and Senate (on Nov 13) approved H R 2159, the FY1998 Foreign Operations Appropriations. For family planning, H R 2159 capped funding at \$385 million and "metered" the money at \$32.1 million per month, but deleted the House-passed "Mexico City" restrictions
- 09/04/97** — The House passed H R 2159, the Foreign Operations Appropriations bill, by a vote of 375-49. Earlier that day, the House had approved (234-191) an amendment introduced by Representative Chris Smith that would reinstate modified "Mexico City" provisions to U S population assistance programs
- 06/05/97** — The House voted (232-189) to approve an amendment to the Foreign Relations Authorizations bill, introduced by Representative Chris Smith, to reinstate "Mexico City" restrictions on USAID population assistance programs, the House rejected (200-218) a substitute amendment by Reps Campbell and Greenwood that would have kept current U S law in place
- 02/25/97** — The Senate passed H J Res 36, approving the presidential finding (53-46)
- 02/13/97** — The House passed H J Res 36, approving the presidential finding (220-209), also passed H R 581, a bill by Representative Chris Smith, imposing Mexico City restrictions (231-194)
- 01/31/97** — President Clinton issued a finding that to delay USAID funding for population assistance programs until July 1 would have a negative impact on the proper functioning of population planning programs
- 09/30/96** — Congress cleared for the White House, H R 4278, an omnibus spending measure containing funding for family planning assistance programs and a provision allowing the President to certify by Feb 1, 1997, that delayed funding for USAID population programs would impact negatively on their effectiveness